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SENATE BILL 336

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING A TIERED SYSTEM OF
FINANCIAL REPORTING FOR MUTUAL DOMESTIC WATER CONSUMERS
ASSOCIATIONS, LAND GRANTS, INCORPORATED MUNICIPALITIES AND
SPECIAL DISTRICTS; ALLOWING A THREE-YEAR RETROACTIVE
APPLICATION OF THE TIERED SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 12-6-2 NMSA 1978 (being Laws 1969,
Chapter 68, Section 2, as amended) is amended to read:

"12-6-2. [~~DEFINITION~~] DEFINITIONS.--As used in the Audit
Act:

A. "agency" means:

[~~A.~~] (1) any department, institution, board,
bureau, court, commission, district or committee of the
government of the state, including district courts, magistrate

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1 or metropolitan courts, district attorneys and charitable
2 institutions for which appropriations are made by the
3 legislature;

4 [B-] (2) any political subdivision of the
5 state, created under either general or special act, that
6 receives or expends public money from whatever source derived,
7 including counties, county institutions, boards, bureaus or
8 commissions; municipalities; drainage, conservancy, irrigation
9 or other special districts; and school districts;

10 [E-] (3) any entity or instrumentality of the
11 state specifically provided for by law, including the New
12 Mexico finance authority, the New Mexico mortgage finance
13 authority and the New Mexico lottery authority; and

14 [D-] (4) every office or officer of any entity
15 listed in [~~Subsections A through G~~] Paragraphs (1) through (3)
16 of this [~~section~~] subsection; and

17 B. "local public body" means a mutual domestic
18 water consumers association, a land grant, an incorporated
19 municipality or a special district."

20 Section 2. Section 12-6-3 NMSA 1978 (being Laws 1969,
21 Chapter 68, Section 3, as amended) is amended to read:

22 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
23 EXAMINATIONS.--

24 A. Except as otherwise provided in Subsection B of
25 this section, the financial affairs of every agency shall be

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1 thoroughly examined and audited each year by the state auditor,
2 personnel of the state auditor's office designated by the state
3 auditor or independent auditors approved by the state auditor.
4 The comprehensive annual financial report for the state shall
5 be thoroughly examined and audited each year by the state
6 auditor, personnel of the state auditor's office designated by
7 the state auditor or independent auditors approved by the state
8 auditor. The audits shall be conducted in accordance with
9 generally accepted auditing standards and rules issued by the
10 state auditor.

11 B. The examination of the financial affairs of a
12 local public body shall be determined according to its annual
13 revenue each year. All examinations and compliance with
14 agreed-upon procedures shall be conducted in accordance with
15 generally accepted accounting standards and rules issued by the
16 state auditor. If a local public body has an annual revenue,
17 calculated on a cash basis of accounting, exclusive of capital
18 outlay funds, federal or private grants or capital outlay funds
19 disbursed directly by an administrating agency, of:

20 (1) less than fifty thousand dollars
21 (\$50,000), it shall comply only with the applicable provisions
22 of Section 6-6-3 NMSA 1978;

23 (2) less than fifty thousand dollars (\$50,000)
24 and directly expends at least fifty percent of, or the
25 remainder of, a single capital outlay award, it shall submit to

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1 the state auditor a financial report consistent with agreed-
2 upon procedures for financial reporting that are:

3 (a) focused solely on the capital outlay
4 funds directly expended;

5 (b) economically feasible for the
6 affected local public body; and

7 (c) determined by the state auditor
8 after consultation with the affected local public body;

9 (3) at least fifty thousand dollars (\$50,000)
10 but not more than two hundred fifty thousand dollars
11 (\$250,000), it shall submit to the state auditor, at a minimum,
12 a financial report that includes a schedule of cash basis
13 comparison and that is consistent with agreed-upon procedures
14 for financial reporting that are:

15 (a) narrowly tailored to the affected
16 local public body;

17 (b) economically feasible for the
18 affected local public body; and

19 (c) determined by the state auditor
20 after consultation with the affected local public body;

21 (4) at least fifty thousand dollars (\$50,000)
22 but not more than two hundred fifty thousand dollars (\$250,000)
23 and expends any capital outlay funds, it shall submit to the
24 state auditor, at a minimum, a financial report that includes a
25 schedule of cash basis comparison and a test sample of expended

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1 capital outlay funds and that is consistent with agreed-upon
2 procedures for financial reporting that are:

3 (a) narrowly tailored to the affected
4 local public body;

5 (b) economically feasible for the
6 affected local public body; and

7 (c) determined by the state auditor
8 after consultation with the affected local public body;

9 (5) at least two hundred fifty thousand
10 dollars (\$250,000) but not more than five hundred thousand
11 dollars (\$500,000), it shall submit to the state auditor, at a
12 minimum, a compilation of financial statements and a financial
13 report consistent with agreed-upon procedures for financial
14 reporting that are:

15 (a) economically feasible for the
16 affected local public body; and

17 (b) determined by the state auditor
18 after consultation with the affected local public body; or

19 (6) five hundred thousand dollars (\$500,000)
20 or more, it shall be thoroughly examined and audited as
21 required by Subsection A of this section.

22 ~~[B.]~~ C. In addition to the annual audit, the state
23 auditor may cause the financial affairs and transactions of an
24 agency to be audited in whole or in part.

25 ~~[C.]~~ D. Annual financial and compliance audits of

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1 agencies under the oversight of the financial control division
2 of the department of finance and administration shall be
3 completed and submitted by an agency and independent auditor to
4 the state auditor no later than sixty days after the state
5 auditor receives notification from the financial control
6 division to the effect that an agency's books and records are
7 ready and available for audit. The local government division
8 of the department of finance and administration shall inform
9 the state auditor of the compliance or failure to comply by a
10 local public body with the provisions of Section 6-6-3 NMSA
11 1978.

12 [~~D-~~] E. In order to comply with United States
13 department of housing and urban development requirements, the
14 financial affairs of a public housing authority that is
15 determined to be a component unit in accordance with generally
16 accepted accounting principles, other than a housing department
17 of a local government or a regional housing authority, at the
18 public housing authority's discretion, may be audited
19 separately from the audit of its local primary government
20 entity. If a separate audit is made, the public housing
21 authority audit shall be included in the local primary
22 government entity audit and need not be conducted by the same
23 auditor who audits the financial affairs of the local primary
24 government entity."

25 Section 3. TEMPORARY PROVISION--LIMITED WAIVER.--

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1 Compliance of a local public body not in compliance with the
2 Audit Act between January 1, 2006 and June 30, 2009 is waived
3 for those years if the local public body complies with the
4 applicable provisions of that act in effect on or after July 1,
5 2009, unless the local public body is required to receive a
6 full financial and compliance audit pursuant to the provisions
7 of that act in effect on or after July 1, 2009.

8 Section 4. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2009.